



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: CB Commercial Government Services Group--
Reconsideration

File: B--259014.2

Date: April 3, 1995

Kenneth B. Weckstein, Esq., Epstein Becker & Green, P.C. for the protester.

Lydia R. Hakken, Esq., General Services Administration, for the agency.

Adam Vodraska, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where the request is based on information that was available to, but not proffered by, the requester during consideration of the initial protest.

DECISION

CB Commercial Government Services Group requests reconsideration of our decision in CB Commercial Gov't Servs. Group, B-259014, Feb. 28, 1995, 95-1 CPD ¶ ____, in which we denied CB's protest of the rejection of its proposal by the General Services Administration under request for proposals (RFP) No. GS-11P-94-AQC-0006 for private sector program development and management services for the International Trade Center at the Federal Triangle Building in Washington, D.C.

We deny the request for reconsideration.

CB's proposal was rejected by the agency because it failed to provide adequate information demonstrating that CB was actively engaged during the past 6 years in the marketing, leasing, and operation for one of the three retail centers it listed to meet a "go/no-go" qualification criterion that the RFP required offerors to satisfy in order to be considered for award. We found that this criterion was essentially a definitive responsibility criterion, see Stevens Technical Servs., Inc., B-250515.2; et al., May 17, 1993, 93-1 CPD ¶ 385, and that the agency had reasonably

found that CB had not provided adequate objective evidence, despite being given the opportunity to do so in two requests for clarification, to show compliance with this criterion.

Under our Bid Protest Regulations, a request for reconsideration must specify alleged errors of law made or information not previously considered by our Office that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1995). CB does not challenge our conclusion that the qualification criterion is essentially a definitive responsibility criterion or that the term "actively engaged," as used in that criterion, was reasonably equated by the agency to mean day-to-day experience or direct involvement with marketing, leasing, and operating retail centers. Rather, CB contends that it should now have the opportunity to present additional evidence that shows that the center designated in its proposal, as well as several previously unidentified centers, satisfy the criterion, and that, in any event, the evidence CB had presented during the course of its protest was sufficient to show compliance.


In order to provide a basis for reconsideration, information not previously considered must have been unavailable to the requesting party when the initial protest was being considered. Ameriko/Omserv--Recon., B-252879.4, May 25, 1994, 94-1 CPD ¶ 341. A party's failure to make all arguments or to submit all information available during the course of the initial protest undermines the goal of our bid protest forum--to produce fair and equitable decisions based on consideration of all parties' arguments on a fully developed record--and cannot justify reconsideration of our prior decision. Id.

Here, CB had ample opportunity prior to award to demonstrate that it was actively engaged during the last 6 years in the marketing, leasing, and operation of the center designated in its proposal, but, until now, has not done so. While the affidavits of the CB officials submitted with CB's request for reconsideration indicate that CB has been, and continues to be, actively engaged in the marketing, leasing, and operation of this center, as well as of other retail centers, the information in these affidavits was not provided to the agency prior to award. Indeed, the statements in the affidavits were exactly the type of information sought by the agency in its two requests for clarifications on this issue, but to which CB did not adequately respond. The information supplied in the affidavits--describing CB's role at its designated center and at other retail centers--was clearly available to CB during its protest. Whatever the reason for CB's prior reluctance to clarify that it was actively engaged in marketing, leasing, and operating the center designated in its proposal as well as other centers, it cannot proffer

such information for the first time in a request for reconsideration. See Ford Contracting Co.--Recon., B-248007.3; B-248007.4, Feb. 2, 1993, 93-1 CPD ¶ 90.

The remainder of CB's request merely repeats arguments previously made and expresses disagreement with our decision that the agency reasonably found that CB had provided inadequate evidence that it complied with the criterion and that the offerors were treated equally by the agency in evaluating this aspect of their proposals. Since a party requesting reconsideration must show either errors of fact or law or present information not previously considered, 4 C.F.R. § 21.12(a), CB's repetition of arguments and expressions of disagreement provide no basis for reconsideration. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

The request for reconsideration is denied.


for Robert P. Murphy
General Counsel